

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS WAIVING A MINOR BID IRREGULARITY AND AWARDING A CONSTRUCTION CONTRACT TO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER, GHILOTTI CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$3,046,388.75, AND AUTHORIZING THE DIRECTOR OF ENGINEERING TO NEGOTIATE AND EXECUTE CHANGE ORDER(S) IN THE CUMMULATIVE AMOUNT NOT TO EXCEED \$625,000 FOR THE MAIN STREET PAVEMENT RECONSTRUCTION PROJECT NO. 4277**

**WHEREAS**, on February 17, 2015, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Main Street Pavement Reconstruction, Project No. 4277, (the "Project") which provides for the partial reconstruction of South Main Street from Carlo Street to Great Mall Parkway; and

**WHEREAS**, the Engineer's Estimate for the base bid Project work was \$3,600,000; and

**WHEREAS**, the Project was advertised and eight (8) sealed bid proposals were received and opened on March 18, 2015, which ranged from \$2,823,287.02 to \$3,346,356.90. Two of the eight bids were determined to be nonresponsive. The lowest bid submitted by Bay Cities Grading and Paving Inc. was deemed nonresponsive for their failure to attend any of the mandatory pre-bid conferences as required in the bid documents. The highest bid submitted by O'Grady Paving, Inc., was also deemed nonresponsive for their failure to complete and properly fill out the bid proposal. Therefore, the lowest responsible base bid was submitted by Ghilotti Construction Company, Inc., in the amount of \$2,871,691.35; and

**WHEREAS**, one bid protest was filed with the City within five (5) days of the bid opening as set forth in the project plans and specifications by Ghilotti Construction Company, Inc., requesting that Bay Cities Grading and Paving Inc.'s bid be determined nonresponsive for their failure to attend one of the two mandatory pre-bid meetings; and

**WHEREAS**, the bid documents required all proposers to attend one of two mandatory pre-bid conferences prior to submitting a bid and the City upheld the bid protest since Bay Cities Grading and Paving, Inc., failed to attend any of the mandatory pre-bid conferences; and

**WHEREAS**, Ghilotti Construction Company, Inc.'s bid contained a minor bid irregularity in that there was a mathematic error increasing the proposed contract price by \$180.00 (One Hundred and Eighty Dollars). The Public Contract Code and the City's bid documents authorize the City to waive any minor irregularity and proceed with the award of the contract.

**WHEREAS**, the City Council may waive the minor irregularity since the mathematic error only increased the proposed contract price by \$180.00 (One Hundred and Eighty Dollars); and

**WHEREAS**, the bid package included 15 add alternate work items for consideration of pricing after bid opening. The add alternate items provide for the asphalt overlay and new pavement striping of Curtis Avenue, and Corning Avenue from South Main Street to Abel Street. The cost of the additional items is \$174,697.40 and would be most cost effective to include at this time. Staff recommends the award of the construction contract including the additional 15 add alternate items for a total cost of \$3,046,388.75, which is well below the project's cost plan. Since the base bid came in nearly \$700,000 below the estimated cost, staff recommends adding additional work to the project in order to expend all of the RDA

funds at this time. The additional work would include: asphalt overlay of Weller Lane; upgrading the signal poles at Serra and Main; installing a slotted curb at the median island in front of the Library; and additional sidewalk and roadway replacement. This additional work would be paid for out of the project construction contingency budget and no additional appropriation is required; and

**WHEREAS**, sufficient funds to award the Project are available in the Project budget and staff recommends the City Council authorize the City Manager to award to and execute a construction contract with the lowest responsible bidder for the Project in conformity with State law; and

**WHEREAS**, due to the Project's tight completion schedule and ability for staff to respond swiftly to unanticipated construction conditions in order to limit potential claims or risk to the City, staff recommends the City Council authorize the Director of Engineering to negotiate and execute change order(s) in an amount not to exceed the construction contingency established for this Project of \$625,000, which is approximately twenty percent (20%) of the estimated construction cost.

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby waives the minor bid irregularity and awards the construction contract to and authorizes the City Manager to execute a construction contract and related documents with the lowest responsible bidder, Ghilotti Construction Company, Inc., for the Main Street Pavement Reconstruction, Project No. 4277, in the total amount of \$3,046,388.75.
3. The Director of Engineering is hereby authorized to negotiate and execute contract change order(s) for the Main Street Pavement Reconstruction, Project No. 4277 in the cumulative contingency amount not to exceed \$625,000 for the Project.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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Michael J. Ogaz, City Attorney